UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.:

Gwendolyn J. Applequist,

Plaintiff,

v.

HireRight, Inc.; and
Omni Data Retrieval, Inc.,

Defendants.

AMENDED COMPLAINT WITH JURY TRIAL DEMAND

PRELIMINARY STATEMENT

1. This action for damages is based on Defendants' false reporting on Plaintiff's criminal background report for employment purposes, and Defendants' failures to follow reasonable procedures in preparing such report.

PARTIES

2. Plaintiff Gwendolyn J. Applequist is natural person who, at the time of the filing of the original Complaint in this action, resided in the city of Arden Hills, County of Ramsey, State of Minnesota; and she is a "consumer" as that term is defined by 15 U.S.C. § 1681a(c) and 15 U.S.C. § 1692a(3).

3. Defendant HireRight, Inc., does business in Minnesota and is a "consumer reporting agency" as that term is defined by 15 U.S.C. § 1681a(f).

4. Defendant Omni Data Retrieval, Inc., ("Omni") does business in Minnesota and is a "consumer reporting agency" as that term is defined by 15 U.S.C. § 1681a(f).

JURISDICTION AND VENUE

5. Because this case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., jurisdiction of this Court arises under 28 U.S.C. § 1331, and supplemental jurisdiction for state law claims arises under 28 U.S.C. § 1367.

6. Venue is proper in this Court because a substantial part of the claim arose in Minnesota, and Defendants "reside" in Minnesota, as that term is used in 28 U.S.C. § 1391.

FACTUAL ALLEGATIONS

7. In or about February, 2010, Plaintiff applied for a job at 3M.

8. Plaintiff had lost her prior job, and had been looking for work for about six months.

9. The 3M job would have been Plaintiff's dream job.

10. Plaintiff was offered the 3M job, contingent on the completion of a criminal background check.

11. On or about March 9, 2010, Omni transmitted a criminal background report on Plaintiff.

12. Omni did not at that time notify Plaintiff of the fact that it was reporting public information on her to HireRight.

13. On or about March 9, 2010, HireRight transmitted a criminal background report on Plaintiff.

14. HireRight used Omni's report to prepare its report.

15. HireRight did not at that time notify Plaintiff of the fact that it was reporting public information on her to 3M.

16. On or about March 10, 2010, Plaintiff was told that the 3M job would not be offered to her because of a felony conviction appearing in HireRight's criminal background report on her.

17. The indication of a felony conviction in HireRight's criminal background report on Plaintiff was false.

18. Plaintiff has never been charged with or convicted of a felony.

19. Plaintiff obtained a copy of the report HireRight had made on her.

20. In addition to the false felony conviction, there were two false misdemeanor convictions in HireRight's criminal background report on Plaintiff.

21. In addition to the false felony conviction, there were two false misdemeanor convictions in Omni's criminal background report on Plaintiff

22. All three false criminal cases in Defendants' criminal background reports on Plaintiff were against one criminal defendant, who is not Plaintiff.

23. The identifying information for that defendant in the public record for those three cases does not match Plaintiff's first name, middle name, last name, month of birth, day of birth, year of birth, or gender.

24. Plaintiff had absolutely nothing to do with any of those three cases and had no knowledge of them prior to learning of their inclusion in HireRight's criminal background report on Plaintiff.

25. Defendants' criminal background reports on Plaintiff falsely indicated that the three cases were in Ramsey County, Minnesota.

26. The three cases were in Dakota County, Minnesota.

27. Plaintiff immediately disputed to HireRight.

28. Before the false information was removed from HireRight's file on Plaintiff, the position at 3M was filled.

29. Plaintiff remained out of work for more than six months.

30. As a result of Defendants' actions and omissions, Plaintiff has suffered actual damages, including without limitation loss of employment, out-of-pocket expenses, and emotional distress.

TRIAL BY JURY

31. Plaintiff is entitled to and hereby requests a trial by jury.

CAUSES OF ACTION

COUNT I:
VIOLATIONS OF THE FAIR CREDIT REPORTING ACT
15 U.S.C. § 1681e(b)

32. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.

33. Defendants willfully and/or negligently violated 15 U.S.C. § 1681e(b) by failing to follow reasonable procedures to assure the maximum possible accuracy of Plaintiff's consumer report.

34. As a result of Defendants' violations of § 1681e(b), Plaintiff has suffered actual damages, including without limitation loss of employment, out-of-pocket expenses, and emotional distress. Plaintiff is therefore entitled to recover actual damages pursuant to 15 U.S.C. §§ 1681n and 1681o.

35. Defendants' actions and omissions were willful, rendering them liable for punitive damages and/or statutory damages pursuant to 15 U.S.C. § 1681n.

36. Plaintiff is entitled to recover costs and attorney's fees from Defendants pursuant to 15 U.S.C. §§ 1681n and 1681o.

COUNT II:
VIOLATIONS OF THE FAIR CREDIT REPORTING ACT
15 U.S.C. § 1681k

37. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.

38. Defendants each willfully and/or negligently violated 15 U.S.C. § 1681k by failing to either: provide notice to Plaintiff at the time that they were reporting public information on her to 3M; or maintain strict procedures to insure that the information they reported on Plaintiff was complete and up to date.

39. As a result of Defendants' violations of § 1681k, Plaintiff has suffered actual damages, including without limitation loss of employment, out-of-pocket expenses, and emotional distress. Plaintiff is therefore entitled to recover actual damages pursuant to 15 U.S.C. §§ 1681n and 1681o.

40. Defendants' actions and omissions were willful, rendering them liable for punitive damages and/or statutory damages pursuant to 15 U.S.C. § 1681n.

41. Plaintiff is entitled to recover costs and attorney's fees from Defendants pursuant to 15 U.S.C. §§ 1681n and 1681o.

COUNT III:
DEFAMATION

42. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.

43. Defendants' foregoing actions and omissions, including but not limited to reporting errors on Plaintiff's consumer reports, constitute defamation.

44. Defendants' foregoing actions and omissions were intentional and malicious.

45. As a result of Defendants' intentional and malicious defamation, Plaintiff has suffered actual damages, including without limitation loss of employment, out-of-pocket expenses, and emotional distress.

COUNT IV:
NEGLIGENCE

46. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.

47. Defendants' foregoing actions and omissions constitute a breach of Defendants' duty to Plaintiff.

48. Defendants' foregoing actions were intentional and malicious.

49. As a result of Defendants' intentional and malicious negligence, Plaintiff has suffered actual damages including without limitation loss of employment, out-of-pocket expenses, and emotional distress.

WHEREFORE,

Plaintiff prays that judgment be entered against these Defendants for:

a.) Plaintiff's actual damages;

b.) Punitive and/or statutory damages pursuant to 15 U.S.C. § 1681n;

c.) Reasonable attorney's fees and costs pursuant to 15 U.S.C. §§ 1681n and/or 1681o;

d.) Such other and further relief as may be just and proper.

Dated: 12/13/10

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